

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

12 Cr. 876 (ALC)

-v.- :

PAUL CEGLIA, :

Defendant. :

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DECLARATION OF DAVID PATTON

I, DAVID E. PATTON, hereby declare under the penalties of perjury, pursuant to 28 U.S.C. §1746 that:

1. I am the attorney for Paul Ceglia in the above-captioned matter, and I make this declaration in support of a motion pursuant to Rule 21(b) of the Federal Rules of Criminal Procedure for a transfer of venue to the Western District of New York. I make the following statements based on my information and belief from my investigation in this case.

2. On June 30, 2010, Mr. Ceglia filed a lawsuit against Mark Zuckerberg and Facebook, Inc., the company Mr. Zuckerberg founded while at Harvard. The lawsuit was filed in Allegany County in the Supreme Court for the State of New York, and it alleged that Mr. Ceglia was entitled to an ownership interest in Facebook based upon an agreement with Mr. Zuckerberg in 2003. Upon Facebook's motion, the lawsuit was removed to the United States District Court for Western District of New York in Buffalo. During the course of the lawsuit in Buffalo, Facebook acknowledged that Mr. Zuckerberg and Mr. Ceglia entered into a contract in 2003. Initially, it defended against the lawsuit by claiming that the terms of the contract, which refer to both "the Pagebook" and "the Facebook," did not refer to the current company Facebook, Inc.

Facebook later changed its defense to claim that the contract had been altered to include the language about an ownership interest in Facebook.

3. The Court in the Western District of New York, the Honorable Richard J. Arcara, allowed limited discovery on the authenticity of the contract for the purposes of Facebook's motion to dismiss. The two parties then engaged in a series of expert examinations and testing with each party's experts coming to different conclusions about the authenticity of the portion of the contract relating to Mr. Ceglia's ownership interest in Facebook.

4. Throughout the course of the litigation, Mr. Ceglia retained numerous attorneys. They include his current counsel, Paul Argentieri, located in Hornell, New York (in the Western District) and Dean Boland, located in Cleveland, Ohio. They also include former counsel at Connors & Vilardo, LLP in Buffalo, and Kasowitz, Benson, Torres & Friedman LLP and DLA Piper in New York City. Facebook also retained different counsel during the pendency of the lawsuit. First it was represented by Michael Powers and Sean McPhee from Phillips Lytle LLP in Buffalo, and Lisa Simpson of Orrick, Herrington in New York City. Later, it added Orin Snyder and Alex Southwell of Gibson Dunn in New York, both of whom are former Assistant U.S. Attorneys in the Southern District of New York.

5. On October 25, 2012, while Facebook's motion to dismiss was pending, the United States Attorney's Office for the Southern District of New York charged Mr. Ceglia in a complaint with mail and wire fraud relating to his purportedly false claims in the lawsuit in the Western District of New York. The criminal charges allege nothing more than the defenses put forward by Facebook in the civil action in Buffalo: *i.e.*, that the contract was altered and that Mr. Ceglia made false claims in the course of the lawsuit.

6. Mr. Ceglia was arrested in Wellsville, New York and was initially presented in Magistrate's Court in Buffalo pursuant to Rule 5(c)(3). Bail was set, and Mr. Ceglia is currently residing at his home in Wellsville where he is supervised by Pretrial Services in Buffalo.

7. On November 26, 2012, the government filed an indictment alleging one count of mail fraud and one count of wire fraud. Again, the allegations arise entirely from the civil lawsuit pending in the Western District of New York. The only apparent basis for venue comes from paragraph eight of the indictment which states that Mr. Ceglia "caused legal pleadings and other items to be delivered by mail to Washington, D.C., among other places, from the Southern District of New York and elsewhere, including on or about April 11, 2011."

8. As of the filing of this motion, the civil suit is still pending in the Western District, and Judge Arcara has not yet ruled on the authenticity of the contract and the motion to dismiss.

Dated: New York, New York
January 16, 2013

A handwritten signature in dark ink, appearing to read 'D. Patton', written over a horizontal line.

David E. Patton
Attorney for Paul Ceglia